Government
Publications

ONTARIO

THE ONTARIO MUNICIPAL BOARD
145 Queen Street West
Toronto, 1.

63rd ANNUAL REPORT

of

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1968

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

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ONTARIO

THE ONTARIO MUNICIPAL BOARD

PART I

NATURE AND SCOPE OF THIS REPORT

Section 100 of The Ontario Municipal Board Act, R.S.O. 1960, Chapter 274, provides as follows:

> "100.-(1) The Board shall, after the close "of each calender year, make an annual re- "port upon the affairs of the Board to the "Minister of Municipal Affairs who shall "file it with the Provincial Secretary.
> "
> "(2) The Provincial Secretary shall submit "the report to the Lieutenant Governor in "Council and shall then lay the report be- "fore the Assembly if it is in session or, "if not, at the next ensuing session".

A word as to the nature and extent of the report required might not be amiss. The traditional form and content of the annual reports of many governmental agencies have led some to expect the report of this Board to serve as a sort of "state of the union" or "state of the province" message. Nothing could be farther from what this Board conceives to be the ambit of its duties and therefore what should be the form and nature of its annual report.

As noted in somewhat more detail in Part IV hereunder, this Board is primarily and essentially a tribunal rather than an agency or commission. Consequently it is not the custodian of the "state of the union" or the "state of the province". The purpose of this annual report is to chronicle the conduct by the Board of its statutory duties and functions.

Viewed in this light it must follow that if this annual report is superimposed on that of the year previous it will be found that the figures have changed but the pattern is essentially the same. If the statutory duties were the same as in the previous year, then the two reports must of necessity bear a strong resemblance to each other.

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PART II

ESTABLISHMENT AND OPERATION

The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. The Board carries out and performs statutory duties and functions only, and while it is a corporate body the practice is strictly followed of assigning members to specific applications which require a hearing and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by the Chairman or by two other members, one of whom must be a vice-chairman.

A suggestion has been made that more effective use of the personnel of the Board might be achieved if power were given for one member to conduct less important or more routine hearings as this would make it possible to assign three members for more difficult hearings and for hearings of review of previous decisions provided for by Section 42 of The Ontario Municipal Board Act. It would seem that this suggestion is worthy of study.

Two functions of the Board, namely the hearing of assessment appeals from County and District judges and acting as arbitrator to award compensation in expropriation cases, can be said to be strictly judicial while most, if not all, of the Board's other jurisdiction, whether by way of appeal or as a tribunal of first instance, is administrative.

In this connection reference is made to a judgment of the Ontario Court of Appeal in Re Ashby, 1934 O.R. at page 421. There the Court adopted with approval an article setting forth the difference between a judicial and an administrative tribunal. A judicial tribunal hears evidence, makes findings and applies the law; an administrative tribunal hears evidence, makes findings and applies policy.

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PART III

MEMBERSHIP and ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

J. A. KENNEDY, Q.C. (Appointed October 1st, 1956)	Chairman
A. H. ARRELL, Q.C. (Appointed June 30th, 1961)	Vice-Chairman
H. E. ROBERTS (Appointed June 30th, 1961)	Vice-Chairman
D. JAMIESON (Appointed December 1st, 1955)	Vice-Chairman
W. SHUB, Q.C. (Appointed June 1st, 1963)	Vice-Chairman
W. GREENWOOD (Appointed January 1st, 1953 Retired September 30th, 1968)	Member
V. S. MILBURN (Appointed April 1st, 1956 Retired October 31st, 1968)	Member
A. L. McCRAE (Appointed December 1st, 1958)	Member
J. V. LUDGATE (Appointed April 1st, 1962)	Member
F. G. BLAKE (Appointed November 15th, 1962)	Member
R. M. McGUIRE (Appointed November 1st, 1963)	Member
W. T. SHRIVES (Appointed October 18th, 1965)	Member
W. H. J. THOMPSON, Q.C. (Appointed July 1st, 1966)	Member
R. J. MARIN (Appointed September 1st, 1966) Resigned June 30th, 1968)	Member
B. E. SMITH (Appointed August 1st, 1968)	Member
ALAN VAN EVERY, Q.C. (Appointed September 3rd, 1968)	Member
D. S. COLBOURNE (Appointed September 3rd, 1968)	Member

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R. SCOTT (Appointed June 1st, 1967)	Secretary
D. H. SUTHERLAND Appointed January 1st, 1963)	Registrar

All Board members and staff are engaged full-time. The Board's Chambers during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto, 1.

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PART IV

JURISDICTION AND FUNCTIONS

The jurisdiction and function of this Board are a part of what is known as the administrative process. The Board is not a department of government but a tribunal exercising a wide variety of jurisdiction with respect to municipalities a great part of which was exercised at one time by the Executive Council of the province or by the Legislature.

Many matters which come before the Board are dealt with in a purely administrative manner and no hearing of any nature is held. The Board proceeds on information in writing filed by the applicant or other persons interested. Many applications of this nature dealt with in this way are applications for approval of capital expenditures.

There are a number of types of applications in respect of which the statute requires the Board to hold a public hearing, in some cases on notice to persons specified by the statute, and in other cases on such notice as the Board may determine.

There are also cases in which a public hearing is not required by statute but the Board on its own motion decides that a public hearing should be held.

When the Board does hold a hearing it is subject in law to the rules of natural justice which, as applied in this case, could be stated as follows:

1: The tribunal shall be free from bias.

2: All persons having an interest in the subject matter shall be heard.

In matters of law and jurisdiction there is an appeal from the Board to the Court of Appeal and on all matters there is an appeal to the Lieutenant-Governor in Council.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school acts, but in addition there is a myriad of other statutory provisions which confer jurisdiction on the Board in a very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories:

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, by municipalities and other local authorities, and by certain private corporations.

These two divisions are reported on in Parts IV and V respectively of this report.

By The Expropriations Procedures Act, which came into force December 20th, 1968, a Land Compensation Board is established which will assume completely the jurisdiction referred to in 2 above, as well as similar jurisdiction previously vested in County Judges and Official Arbitrators. By that statute this Board is directed to perform all functions of the Land Compensation Board until that Board is established.

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PART V

GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

For the purpose of clarity in this report and for convenience the Board's jurisdiction in this part can be divided under the following headings:

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment Appeals.

SECTION 1

Constitution, Boundary Revision and Dissolution of Municipalities

Given in Schedule "A" to this report is a list of twenty-seven annexations ordered by the Board during the year.

The Corporation of the Township of Black River and the Corporation of the Town of Matheson were amalgamated.

The Corporation of the Townships of Capreol and Hanmer and the Corporation of the Township of Blezard were amalgamated under the name The Corporation of the Township of Valley East.

The Town of Orillia was elevated to the status of a city.

The Village of Belle River and the Village of Markham were elevated to the status of towns.

The Improvement District of Dorion was erected as a township municipality.

The former Police Village of Noelville was dissolved upon application by the Board of Trustees.

During the year 1968 seventy-seven applications under The Municipal Corporations Quieting Orders Act were received to establish the legal existence, corporate status, proper area and

boundaries, and fifty-two were granted during the year. A list of these municipalities is given in Schedule "B" to this report.

SECTION 2

Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost thereof

Each year the Board requires every municipality seeking approval of any capital expenditure to file with the Board a completed questionnaire giving information in some detail as to the assessment and capital debt of the municipality. This information is required and used in assessing the ability of the municipality to incur new capital debt.

In a number of municipalities, which include all cities, a substantial number of towns and villages and a number of townships, the Board requires to be filed a five-year forecast showing the estimate made by the Council of the capital needs for the whole or part of the cost of which the municipality expects to be called on to issue debentures in each of the five years. This forecast is studied in the light of the financial position of the municipality and if the forecast for the current year is found to be within the financial competence of the municipality and otherwise acceptable, a quota is established for the municipality against which are charged all applications for expenditure made during the year. This avoids the necessity of examining the capital position of the municipality at the time of each new application.

The number of municipalities placed on quota during the year 1968 was as follows:

Cities	34	
Towns	60	
Villages	6	
Townships	24	124

At the beginning of 1968, because of the uncertain situation of the currency and the consequent desirability of controlling demands on the money market, the Board instituted a policy of re-

questing all municipal councils and other capital spending bodies to limit their proposed projects in 1968 to those forecast for 1968 in the previous year. The response was not only gratifying but one to reflect great credit on the local officials responsible. In the result, demands for capital borrowing from municipal sources in the year were reduced by about $150 million.

The Board also keeps watch over sharp increases in the debt of a municipality and over special rates to be imposed to meet the cost of capital undertakings. In the latter case notice is directed to those sought to be specially assessed and if objection is made a hearing is held.

In the year 1967 the Legislature enacted subsection (7) of Section 64 of The Ontario Municipal Board Act which empowers the Board to make a blanket order approving the expenditure of moneys not exceeding a stated sum for any work or works of the type listed without specific approval in each case, providing all other requirements of the law in respect of each particular project have been met. The statute requires that before any project is undertaken the treasurer of the municipality must certify to the Council that sufficient funds remain available for such project out of the blanket amount or amounts approved by this Board for the current year.

The extent of the use made by municipalities of this streamlined procedure has been disappointingly limited in the year 1968. One would hope that in 1969 this situation might improve because of the substantial benefits entailed in saving precious time.

The following table shows the number of new capital expenditure applications received and the total amount approved in each of the last five years:

Year	Number	Amount
1964	2,641	$ 476,794,469.95
1965	2,690	510,137,199.62
1966	2,874	619,231,676.61
1967	2,869	608,595,545.48
1968	2,841	703,939,055.03

As a result of a requirement contained in The Ontario Education Capital Aid Corporation Act passed in 1966 the projects of all school boards to be financed under the provisions of this statute require the approval of this Board under Section 64 of The Ontario Municipal Board Act.

This means that many separate school boards are required, for the first time, to obtain the approval of this Board under Section 64 of The Ontario Municipal Board Act. It is understandable that this legislation has very greatly increased the number of applications to this Board for approval of capital expenditures for school purposes.

ONTARIO WATER RESOURCES COMMISSION

The Ontario Water Resources Commission Act provides for the undertaking by the Commission on behalf of a municipality of the construction of water works and sewerage works. Since these projects create a debt of the municipalities they require the approval of the Board under Section 64 of The Ontario Municipal Board Act. When part of the cost is to be raised by a special rate the Board requires public notice and if objections are made a public hearing is held.

By an amendment to the statute the Commission is empowered to enter into agreements with municipalities whereby the Commission will construct sewage works and water production works to serve a particular municipality or group of municipalities. The agreement provides that the works shall remain the property of the Province and that a sewage treatment or water supply service is provided for the municipality according to certain specified rates of charges.

When any part of the cost to the municipality is to be raised by a special rate the Board requires public notice and if objections are made a public hearing is held.

During the year 1968 the Board received 53 applications from the Commission for projects at an estimated cost of $10,375,713.38.

SECTION 3

Approval of Restricted Area By-laws,
Official Plans and Plans of Subdivision

The jurisdiction of the Board under this heading is conferred by The Planning Act.

The duties of this nature conferred on the Board are perhaps unique in any democratic jurisdiction. The power to approve official plans, official plan amendments, and plans of subdivision is vested by the statute in the first instance in the Minister of Municipal Affairs. However, the Minister may, and in certain cases shall, refer the application for approval to be decided by this Board. While not required by statute so to do, the Board invariably holds a public hearing on notice to all those believed to have an interest in the subject matter.

No "restricted area" or land use by-law passed under the authority of Section 30 of The Planning Act comes into force without the approval of the Board. A procedure has been established by the Board whereby municipalities are required to give notice of intention to apply to the Board for approval of any such by-law that has been passed. The notice required is one calculated best to bring the proposed application to the notice of all those concerned. A specified period of time, usually fourteen days, is given for objections in writing to be delivered to the municipal clerk. A similar notice is sent to the Community Planning Branch of the Department of Municipal Affairs in order that the Board may receive an opinion from that Branch on planning and technical aspects of the by-law. If these opinions are critical they are made available for comment by those concerned.

If no objection is made approval is practically routine. If there are objections a hearing is held on notice to owners specially concerned and to all objectors.

On these hearings the jurisdiction of the Board rests in a most sensitive area where the democratic fact, rule by the majority, meets and perhaps overshadows or endangers the rights of the minority.

Since normally the duty of local elected representatives is to serve the greatest common good, it follows that the rights of individuals or minorities and the decision made by local elected representatives are sometimes severely at variance. Frequently when it is deemed just to approve the decision of the local elected representatives a bitter reaction results from the minority or individuals who may suffer from such a decision. On the other hand, when local elected representatives have carefully and honestly considered a problem and arrived at a decision which in their opinion serves the greatest common good they are often bitter, and vocally so, when the Board finds it necessary to vary their decision to serve what the Board considers to be paramount private rights.

In this, as in all areas of the Board's jurisdiction, respect must be maintained for local autonomy. Only in case of clear merit is the decision of local elected representatives reversed.

The number of applications made to the Board under this legislation during the year, with figures for the two previous years, is as follows:

	1968	1967	1966
1. Applications for approval of restricted area by-laws	1526	1208	1184
2. Applications for approval of plans of redevelopment	2	2	8
3. Applications for approval of proposed plans of sub-division	5	11	18
4. Applications for approval of official plan amendments	19	33	41
5. Appeals to Board for a direction that a restricted area by-law be amended by council	54	45	43
6. Appeals from committees of adjustment	561	401	413

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SECTION 4

Assessment Appeals

During the year 1968 assessment appeals were made to the Board under the several statutes as follows:

The Assessment Act	227
The Conservation Authorities Act	4
The Local Improvement Act	4
The Municipal Tax Assistance Act	3
The Power Commission Act	5
	243

This compares with 228 such appeals made in the year 1967.

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PART VI

ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

During the year 1968, except as noted earlier in this Report, the Board had jurisdiction to determine compensation or damages to be allowed for lands taken or injuriously affected under various public statutes. The courts have held that in this field the Board must follow strict rules of evidence and what amounts to reasonably strict court procedure. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. As noted earlier, this is a judicial function.

During the year 1968 applications were made to the Board for compensation for damages to be allowed for lands taken or injuriously affected by authorities with the right of expropriation as follows:

	1968
The Conservation Authorities Act	14
The Highway Improvement Act	18
The Municipal Act	71
The Ontario Energy Board Act	1
The Ottawa River Water Powers Act	2
The Power Commission Act	1
The Public Works Act	6
The Schools Administration Act	2
	115

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PART VII

REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act the Board has adopted a tariff of fees payable on various types of applications and orders.

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31st, 1968 and the preceding six years. In conformity with the present system of provincial accounting this table is given for the fiscal year only, in contrast to other statistics contained in this report, which are made for the calendar year ending December 31st, 1968.

Fiscal Year	Amount
1961-62	$ 294,001.91
1962-63	319,086.12
1963-64	308,631.05
1964-65	308,066.04
1965-66	442,623.27
1966-67	578,484.00
1967-68	611,815.82

The revenues of the Board for the calendar year 1968 amounted to $625,419.55.

All of which is respectfully submitted.

J. A. KENNEDY
CHAIRMAN

R. SCOTT
SECRETARY

D. H. SUTHERLAND
REGISTRAR

This is SCHEDULE "A" to the 63rd ANNUAL REPORT of THE ONTARIO MUNICIPAL BOARD

for the year 1968, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Decisions Granting Annexations - 1968

Date of Decision		Effective Date	Area-Acres
Jan. 29, 1968	To : ALLISTON, Town of From: Tossorontio, Township	Mar. 1, 1968	22.941
Oct. 29, 1968	To : BALFOUR, Township From: Chelmsford, Town of Morgan & Creighton (Unorganized Townships)	Jan. 1, 1969	-
Aug. 19, 1968	To : BARRIE, City of From: Vespra Township	Oct. 1, 1968	137.581
Jul. 8, 1968	To : BLENHEIM, Town of From: Harwich Township	Jan. 1, 1969	1.600
Feb. 12, 1968	To : BOLTON, Village of From: Albion Township	Apr. 1, 1968	130.000
Sep. 19, 1968	To : BOWMANVILLE, Town of From: Darlington Township	Jan. 1, 1969	925.000
June 28, 1968	To : BRAMPTON, Town of From: Chinguacousy Township	Jan. 1, 1969	200.000
Oct. 30, 1968	To : CAPREOL & HANMER, Township From: Lumsden Township (unorganized (part)) Bowell Township (unorganized (all))	 Dec. 31, 1968	 9,841.000 17,293.000
Jan. 31, 1968	To : CLINTON, Town of From: Goderich Township	July 1, 1968	9.000
Oct. 17, 1968	To : ELORA, Village of From: Nichol Township (part)	Jan. 1, 1969	11.870
Feb. 16, 1968	To : ESSEX, Town of From: Gosfield North Township	Apr. 1, 1968	39.500
Sep. 1, 1967	To : FERGUS, Town of From: Nichol Township West Garafrax Township	Jan. 1, 1968	645.000
Nov. 30, 1967	To : GUELPH, City of From: Puslinch Township (part)	Jan. 1, 1968	46.000
Feb. 23, 1968	To : HAWKESBURY, Town of From: West Hawkesbury Township	Apr. 1, 1968	406.000
Nov. 30, 1967	To : KITCHENER, City of From: Waterloo Township	Jan. 1, 1968	1,650.000
May 7, 1968	To : LANARK, Township of From: Lanark Village	Jan. 1, 1969	1,800.000
Aug. 22, 1968	To : MAXVILLE, Village of From: Kenyon Township	Oct. 1, 1968	7.019
June 10, 1968	To : MILTON, Town of From: Esquesing Township Oakville, Town of	Jan. 1, 1969	2,680.00

Schedule "A" continued

Date of Decision			Effective Date	Area-acres
Oct. 16, 1968	To :	PORT ELGIN, Town of		
	From:	Saugeen Township	Jan. 1, 1969	13.043
Oct. 1, 1968	To :	PRESTON, Town of		
	From:	Waterloo Township (part)	Jan. 1, 1969	1,529.800
July 10, 1968	To :	SIOUX LOOKOUT, Town of		
	From:	certain unorganized territory adjoining the town and described as being situate in Grand Trunk Pacific Block 10, in the District of Kenora, being composed of Parts 1, 2, 3 and 4, Plan KR 1163	Jan. 1, 1969	29.830
Apr. 25, 1968	To :	TILBURY, Town of		
	From:	Tilbury North Township (part)		757.500
		Tilbury East Township (part)		417.520
			Feb. 1, 1968	
Nov. 26, 1968	To :	TECK, Township of		
	From:	Lebel Township (part)	Jan. 1, 1969	63.700
May 13, 1968	To :	WALLACEBURG, Town of		
	From:	Dover Township	July 1, 1968	127.180
June 10, 1968	To :	WALLACEBURG, Town of		
	From:	Chatham Township, part of the Gore	July 15, 1968	19.400
Feb. 28, 1968	To :	WATERFORD, Town of		
	From:	Townsend Township	April 1, 1968	12.670
Aug. 13, 1968	To :	WHEATLEY, Village of		
	From:	Romney Township	Oct. 1, 1968	11.500

This is SCHEDULE "B" to the 63rd ANNUAL REPORT of THE ONTARIO MUNICIPAL BOARD

for the year 1968, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Classification of Municipal Capital Expenditures
approved during 1968

I - MUNICIPAL

	Amount Approved	1968	1967
(1) General Government			
Civic Buildings	$ 15,323,909.84		
Civic Equipment	247,148.00	$ 15,571,057.84	$ 7,367,897.71
(2) Protection to Persons & Property			
Fire	4,841,270.88		
Police	2,055,379.00		
Street Lighting	454,821.90	7,351,471.78	3,154,323.54
(3) Public Works			
(a) Grade Separations	14,512,903.00		
Streets, Roads, Lanes	160,330,814.26		
Sidewalks	5,272,356.98		
Bridges	8,631,968.79		
Tunnels & Subways	435,700.03		
Road Machinery	1,644,512.76		
Conservation	482,794.50		
Waterways	600,000.00		
Workshops, Yards	430,909.00	192,341,959.32	157,980,395.50
(b) Watermains	19,816,546.35		
Storm Sewers	42,822,829.70	62,639,376.05	59,199,281.27
(4) Sanitation & Waste Removal			
Sanitary Sewers	26,884,617.15		
Sewage Treatment	4,419,613.09		
Garbage	710,000.00		
Waste Collection	850,000.00	32,864,230.24	33,004,951.47
(5) Health			
Clinics	2,468,089.80		
Hospitals	12,875,320.07		
Nurses' Residences	631,145.00	15,974,554.87	23,467,944.41
(6) Social Welfare			
Welfare Offices	600,000.00		
Homes for Aged	5,097,795.12		
Charitable Institutions	310,000.00	6,007,795.12	13,812,453.23
(7) Recreation Services			
Amusement Parks	7,637,947.96		
Golf Courses	31,416.00		
Skating Rinks	2,180,445.04		
Swimming Pools	551,049.84		
Community Centre Halls	420,825.00	10,821,683.84	12,197,711.68

(continued)

(8) Community Services	Amount Approved	1968	1967
Theatres, Art Gallaries	$ 100,000.00		
Exhibitions	30,000.00		
Libraries	1,641,145.00		
Housing	7,960,000.00	9,731,145.00	3,582,771.38
Total General Government		$353,303,274.06	$313,767,730.19

II - EDUCATION

Elementary Schools	$249,027,899.52		
Secondary Schools	38,236,331.02	$287,264,230.54	$242,868,061.66

III - UTILITIES

Electricity	$ 23,847,581.21		
Waterworks	15,449,593.28		
Transportation	1,045,000.00		
Acquisition of lands	17,639,376.64		
Others:			
including parking lots	5,389,999.30	$ 63,371,550.43	$ 51,959,753.63

S U M M A R Y

General Government	$353,303,274.06	$313,767,730.19
Education	287,264,230.54	242,868,061.66
Utilities	63,371,550.43	51,959,753.63
	$703,939,055.03	$608,595,545.48